

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

KEVIN JOHNSON,

Plaintiff,

v.

Case No. 3:24-cv-00080-HEH

VIRGINIA DEPARTMENT
OF CORRECTIONS, *et al.*,

Defendants.

DECLARATION PURSUANT TO 28 U.S.C. § 1746

Kemsey Bowles, under penalty of perjury, states as follows:

1. I am the Lead Warden at Sussex I State Prison, a Virginia Department of Corrections (“VDOC”) facility.
2. The information contained in this declaration is based on personal knowledge and records maintained in the regular and ordinary course of business.
3. I am generally aware that Kevin Johnson, #1007485, has filed a lawsuit naming Virginia Department of Corrections (“VDOC”), Chadwick S. Dotson, A. David Robinson, Beth Cabell, Warden Kemsey Bowles, Kevin McCoy, Matthew Blaha, Brooks Wallace, Officer Smith, Rick White, D. Trent, E. Creech, J. Monihan, and Major Johnny Hall (“Defendants”) as Defendants. Mr. Johnson has filed motion for a temporary restraining order in which seeks to have the Court order Defendants to
 - a. keep Mr. Johnson “in the care of Virginia Commonwealth University’s medical providers until he completes both his hunger strike and the process of refeeding, for at least two weeks or as long as his doctors believe would be medically beneficial, whichever is longer;”

- b. detain Mr. Johnson “in the eastern region of [Virginia] during the pendency of his lawsuit, so that [he] may continue his medical care for cancer and heart issues and so that Mr. Johnson may meaningfully participate in the prosecution of [his] lawsuit;”
 - c. detain Mr. Johnson “in a cell with running water; the same temperature as other cells in the facility; the same changes of clothes, bedding, and hygiene items as other prisoners are permitted; access to in-person visitation and a tablet and/or kiosk for communication; as well as weekly or twice-a- week personal calls, unrestricted legal calls, and access to writing materials throughout the pendency of this case; including while Mr. Johnson is in the hospital;” and
 - d. “strongly consider maintaining Mr. Johnson in a prison near Richmond after the resolution of this case to maintain continuity of care with his cancer providers and any additional medical care providers for his heart or other conditions.”
4. On June 29, 2023, Mr. Johnson was transported to the VCU Medical Center in Richmond for outpatient medical care. After arriving at VCU, Mr. Johnson asked to use a public bathroom. Upon his request C/O R. Vereen and an officer-in-training searched the bathroom and found eight cell phones, two small knives, tobacco and rolling papers. Although the items appeared to have been concealed for an inmate to find, no direct evidence linking Mr. Johnson to the contraband was found.
5. On July 7, 2023, at approximately 12:45 p.m., Intel Officer M. Arenas was conducting a search of Mr. Johnson’s personal property in his cell at Sussex I. While searching numerous pieces of assorted mail and books, a hard cover book entitled “Today in History” appeared to be tampered with. After further inspection, a blue Nokia Trac phone was discovered behind the front cover of the book. At approximately 1:21p.m., Intel Officer M. Arenas, while

still searching Mr. Johnson's mail and books, discovered a hard cover book covered in black tape that appeared to have been tampered with. After further inspection, a black Blade phone was discovered behind the front cover of the book. Mr. Johnson was the only inmate assigned to the cell where the phones were collected from. Mr. Johnson was charged with two counts of possession or use of an unauthorized communication device (SXI-2023-1088 and SXI-2023-1089), and he accepted the penalty offers. Copies of the related disciplinary documents are attached as Enclosure A.

6. That same day, on July 7, 2023, at approximately 1:50 p.m., Intel Officer M. Arenas while still searching Mr. Johnson's commissary items, found a blue Moon Lodge Barbeque potato chip bag that appeared to have been opened and resealed with clear tape on the top of the bag. After further inspection, two (2) bags of tobacco were discovered inside of the Moon Lodge Barbeque potato chip bag. A second blue Moon Lodge Buffalo Wing and Blue Cheese potato chip bag was discovered to have been opened and resealed with clear tape on the back of the bag. After further inspection two (2) bags of tobacco were discovered inside of the Moon Lodge Barbeque potato chip bag. Mr. Johnson was the only inmate assigned to the cell where the property was collected from. Mr. Johnson was charged with possession of tobacco products (SXI-2023-1087), and he accepted the penalty offer. Copies of the related disciplinary documents are attached as Enclosure B.

7. At approximately 2:17 a.m. on August 3, 2023, C/O C. Bishop-Hopkins was conducting rounds in building 3 of Restorative Housing Unit area A side when the C/O noticed that Mr. Johnson had his tray slide still open with his penis out and masturbating. Bishop-Hopkins stopped the rounds to report the incident to the booth officer, C/O N. Owiredo who then asked Bishop-Hopkins to write a disciplinary charge, SXI-2023-1216, and Mr. Johnson accepted the penalty offer. Copies of the related disciplinary documents are attached as Enclosure C.

8. On October 19, 2023, at approximately 3:20 a.m., a cell search was conducted in Housing Unit 3 Delta 13, where Mr. Johnson was housed. Upon the search of the cell, a 7.5" knife (Kershaw Speed safe USA), was found by Lt. Don Williams, located in the bottom part of the cell door. Therefore, this contraband was in Mr. Johnson's possession. This behavior is a threat a threat to staff safety, inmate safety, and the orderly operation of the institution. Therefore, a disciplinary charge for possession or use of a weapon was written (SXI-2023-1664). Mr. Johnson was found guilty. Copies of the related disciplinary documents are attached as Enclosure D.

9. Because the knife in Mr. Johnson's possession posed a threat to staff safety, inmate safety, and the orderly operations of the facility, Mr. Johnson was transferred from general population to restorative housing unit on October 19, 2023. Because of Mr. Johnson's possession of a knife and his convictions for lewd or obscene acts directed toward or in the presence of another and two counts of Possession or use of unauthorized communication devices, the decision was made to transfer Mr. Johnson to a more secure facility. Copies of the relevant Institutional Classification Authority documents are attached as Enclosure E.

I swear under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing statements are true and correct.


KEMSY BOWLES

2-12-2024
Date Executed



Virginia Department of Corrections

Disciplinary Offense Report

Report generated by Spencer, A E

Report run on 02/09/2024 at 05:56 PM

Case Number: <u>SXI-2023-1088</u>	Offender Name: <u>Johnson, Kevin</u>	DOC # <u>1007485</u>	Housing: <u>HU3-A-28B</u>
Facility: <u>Sussex I State Prison</u>	Reference: _____		
Offense Code: <u>131</u>	Offense Title: <u>Possession or use of unauthorized communication devices, to include...</u>		
Offense Date: <u>07/07/2023</u>	Approximate Time: <u>1:21 PM</u>	Location: <u>N/A - Other</u>	

DESCRIPTION OF THE OFFENSE

Provide a summary of the details of the offense (i.e.: who, what, when, where, and how; any unusual behavior, any physical evidence and its disposition, and any immediate action taken – including use of force, etc.)

On July 7, 2023, at approximately 1:21p.m., Intel Officer M. Arenas was conducting a search of inmate Kevin Johnson 1007485 personal property. While searching numerous pieces of assorted mail and books, a hard cover book covered in black tape appeared to be tampered with. After further inspection, a Black Blade phone was discovered behind the front cover of the book. Inmate Kevin Johnson was the only inmate assigned to the cell where the property was collected from, therefore this charge is written in accordance with O.P. 861.1.

☒ InvestigationDate Completed: 07/08/2023☐ DESCRIPTION CONTINUED ON ATTACHED PAGE

Witnesses: <u>Laboy, N</u> _____ _____	Reporting Officer: <u>Arenas, M</u> Title: <u>Institutional Investigator</u> Date: <u>07/08/2023</u> Time: <u>8:25 AM</u>
Officer -In-Charge: <u>Johnson, K M</u> OIC Signature: _____	Title: <u>Captain</u> Date: <u>07/08/2023</u> Time: <u>11:33 AM</u>

ADVISEMENT OF RIGHTS

By signing below, you indicate your preference regarding the rights indicated. Failure to respond, or indicate a preference, constitutes a **WAIVER** of the first three rights. The following forms are available to the offender **UPON REQUEST** in each housing unit: *Witness Request Form*, *Documentary Evidence Request Form*, and the *Reporting Officer Response Form*. The offender must submit these request forms to the Hearings Officer within **48-HOURS** of the charge being served.

DO YOU REQUEST A STAFF OR OFFENDER ADVISOR TO ASSIST YOU AT THE HEARING?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
DO YOU WISH TO REQUEST WITNESSES?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
DO YOU WISH TO REQUEST DOCUMENTARY EVIDENCE?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
DO YOU WISH TO WAIVE YOUR RIGHT TO 24-HOUR PREPARATION TIME PRIOR TO THE HEARING?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
DO YOU WISH TO APPEAR AT THE DISCIPLINARY HEARING? Refusal to appear is an admission of guilt, a waiver of witnesses and the right to a disciplinary hearing.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
YOU HAVE THE RIGHT TO QUESTION REPORTING OFFICER (In person for Category I Offenses; by submitting a Reporting Officer Response Form for Category II Offenses)	
YOU HAVE THE RIGHT TO ENTER INTO A PENALTY OFFER.	
YOU MAY REMAIN SILENT. Silence does NOT constitute an admission of guilt.	
THE CHARGE MAY BE VACATED AND RE-SERVED AS A DIFFERENT OFFENSE, WHICH CAN BE A HIGHER, EQUIVALENT OR LESSER OFFENSE CODE.	
YOU MAY BE FOUND GUILTY OF A LESSER-INCLUDED OFFENSE CODE, IN ACCORDANCE WITH OPERATING PROCEDURE 861.1	

You have been informed of the charges against you, and advised of your rights at the Disciplinary Hearing.

Served and Witnessed By: _____	Offender's Signature: _____
Print Name: _____	Print Name: _____
Date of Service: _____	Approximate Time: _____
IF OFFENDER REFUSES TO SIGN, SERVING OFFICER WILL CERTIFY REFUSAL: _____	

ADVISOR AT SERVICE OF DOR: _____

FORMS PROVIDED AT SERVICE (IF REQUESTED):

☐ Yes ☐ NoDate of Hearing: 07/14/2023

Revised Date: _____

Revised Date: _____

Revised Date: _____

ENCLOSURE A

Case Number: SXI-2023-1088

Offender Name: Johnson, Kevin

DOC # 1007485

Housing: HU3-A-28B

Facility: Sussex I State Prison

Reference: _____

OFFENDER'S PLEA AND RIGHTS

Hearing Location: _____

Date: 07/16/2023

Time: 12:00 AM

Plea: ☐ Guilty ☐ Not Guilty ☐ No Plea

Advisor at hearing: _____

Reason for absence/exclusion of the accused offender: _____

Was the Reporting Officer present at the Disciplinary hearing?

☐ Yes ☐ No

Has there been a denial of requested witnesses?

☐ Yes ☐ No

Has there been a denial of Documentary Evidence Forms?

☐ Yes ☐ No**DECISION OF THE HEARINGS OFFICER**

- ☐ Guilty ☐ Not Guilty ☐ Dismissed ☒ Accepted Penalty Offer within 24 Hours of Service
- ☐ Informal Resolution ☐ Reduced to Lesser-Included Offense ☐ Reduced Penalty
- ☐ Vacated - Offender waived rewrite/serve of offense ☐ Vacated for Rewrite/Re-serve

☒ For the charge of: Offense Title: 131 - Possession or use of unauthorized communication devices, to include...

☐ For the Lesser Included Offense of: Offense Title: _____

Reason for Decision: _____

Penalty: 4a - Fine up to \$15 - Imposed Value: 5 Dollars

Comment: _____

Hearing Officer's Signature: _____

Date: 07/16/2023

Print Name: Whitehurst, T

INSTITUTIONAL REVIEW:

- ☒ Approved ☐ Dismissed ☐ Suspended Penalty ☐ Informal Resolution
- ☐ Reduced Penalty ☐ Rehear ☐ Reduced to Lesser-Included Offense

☒ For the charge of: Offense Title: 131 - Possession or use of unauthorized communication devices, to include...

☐ For the Lesser Included Offense of: Offense Title: _____

Comments: Offender Accepted Penalty Offer

Penalty: 4a - Fine up to \$15 - Imposed Value: 5 Dollars

Signature: _____

Date: 07/17/2023

Print Name: Carr, E A

Title: Treatment Program Supervisor



Virginia Department of Corrections

Disciplinary Offense Report

Report generated by Spencer, A E

Report run on 02/09/2024 at 05:55 PM

Case Number: <u>SXI-2023-1089</u>	Offender Name: <u>Johnson, Kevin</u>	DOC # <u>1007485</u>	Housing: <u>HU3-A-28B</u>
Facility: <u>Sussex I State Prison</u>	Reference: _____		
Offense Code: <u>131</u>	Offense Title: <u>Possession or use of unauthorized communication devices, to include...</u>		
Offense Date: <u>07/07/2023</u>	Approximate Time: <u>12:45 PM</u>	Location: <u>N/A - Other</u>	

DESCRIPTION OF THE OFFENSE

Provide a summary of the details of the offense (i.e.: who, what, when, where, and how; any unusual behavior, any physical evidence and its disposition, and any immediate action taken – including use of force, etc.)

On July 7, 2023, at approximately 12:45 p.m., Intel Officer M. Arenas was conducting a search of inmate Kevin Johnson 1007485 personal property. While searching numerous pieces of assorted mail and books, a hard cover book title "Today in History" appeared to be tampered with. After further inspection, a Blue Nokia Trac phone was discovered behind the front cover of the book. Inmate Kevin Johnson was the only inmate assigned to the cell where the property was collected from, therefore this charge is written in accordance with O.P 861.1.

☒ InvestigationDate Completed: 07/08/2023☐ DESCRIPTION CONTINUED ON ATTACHED PAGE

Witnesses: <u>Laboy, N</u>	Reporting Officer: <u>Arenas, M</u>
	Title: <u>Institutional Investigator</u>
	Date: <u>07/08/2023</u> Time: <u>8:06 AM</u>
Officer -In-Charge: <u>Johnson, K M</u>	Title: <u>Captain</u>
OIC Signature: _____	Date: <u>07/08/2023</u> Time: <u>11:35 AM</u>

ADVISEMENT OF RIGHTS

By signing below, you indicate your preference regarding the rights indicated. Failure to respond, or indicate a preference, constitutes a **WAIVER** of the first three rights. The following forms are available to the offender **UPON REQUEST** in each housing unit: *Witness Request Form*, *Documentary Evidence Request Form*, and the *Reporting Officer Response Form*. The offender must submit these request forms to the Hearings Officer within **48-HOURS** of the charge being served.

DO YOU REQUEST A STAFF OR OFFENDER ADVISOR TO ASSIST YOU AT THE HEARING? ☐ Yes ☐ No ☐ REFUSED TO RESPOND

DO YOU WISH TO REQUEST WITNESSES? ☐ Yes ☐ No ☐ REFUSED TO RESPOND

DO YOU WISH TO REQUEST DOCUMENTARY EVIDENCE? ☐ Yes ☐ No ☐ REFUSED TO RESPOND

DO YOU WISH TO WAIVE YOUR RIGHT TO 24-HOUR PREPARATION TIME PRIOR TO THE HEARING? ☐ Yes ☐ No ☐ REFUSED TO RESPOND

DO YOU WISH TO APPEAR AT THE DISCIPLINARY HEARING?
Refusal to appear is an admission of guilt, a waiver of witnesses and the right to a disciplinary hearing. ☐ Yes ☐ No ☐ REFUSED TO RESPOND

YOU HAVE THE RIGHT TO QUESTION REPORTING OFFICER
(In person for Category I Offenses; by submitting a Reporting Officer Response Form for Category II Offenses)

YOU HAVE THE RIGHT TO ENTER INTO A PENALTY OFFER.

YOU MAY REMAIN SILENT. Silence does NOT constitute an admission of guilt.

THE CHARGE MAY BE VACATED AND RE-SERVED AS A DIFFERENT OFFENSE, WHICH CAN BE A HIGHER, EQUIVALENT OR LESSER OFFENSE CODE.

YOU MAY BE FOUND GUILTY OF A LESSER-INCLUDED OFFENSE CODE, IN ACCORDANCE WITH OPERATING PROCEDURE 861.1

You have been informed of the charges against you, and advised of your rights at the Disciplinary Hearing.

Served and Witnessed By: _____ Offender's Signature: _____
Print Name: _____ Print Name: _____
Date of Service: _____ Approximate Time: _____

IF OFFENDER REFUSES TO SIGN, SERVING OFFICER WILL CERTIFY REFUSAL: _____

ADVISOR AT SERVICE OF DOR: _____

FORMS PROVIDED AT SERVICE (IF REQUESTED): ☐ Yes ☐ No

Date of Hearing: 07/14/2023 Revised Date: _____ Revised Date: _____ Revised Date: _____

Case Number: SXI-2023-1089

Offender Name: Johnson, Kevin

DOC # 1007485

Housing: HU3-A-28B

Facility: Sussex I State Prison

Reference: _____

OFFENDER'S PLEA AND RIGHTS

Hearing Location: _____

Date: 07/16/2023

Time: 12:00 AM

Plea: ☐ Guilty ☐ Not Guilty ☐ No Plea

Advisor at hearing: _____

Reason for absence/exclusion of the accused offender: _____

Was the Reporting Officer present at the Disciplinary hearing?

☐ Yes ☐ No

Has there been a denial of requested witnesses?

☐ Yes ☐ No

Has there been a denial of Documentary Evidence Forms?

☐ Yes ☐ No**DECISION OF THE HEARINGS OFFICER**

- ☐ Guilty ☐ Not Guilty ☐ Dismissed ☒ Accepted Penalty Offer within 24 Hours of Service
- ☐ Informal Resolution ☐ Reduced to Lesser-Included Offense ☐ Reduced Penalty
- ☐ Vacated - Offender waived rewrite/serve of offense ☐ Vacated for Rewrite/Re-serve

☒ For the charge of: Offense Title: 131 - Possession or use of unauthorized communication devices, to include...☐ For the Lesser Included Offense of: Offense Title: _____

Reason for Decision: _____

Penalty: _____

4a - Fine up to \$15 - Imposed Value: 5 Dollars

Comment: _____

Hearing Officer's Signature: _____

Date: 07/16/2023

Print Name: _____

Whitehurst, T

INSTITUTIONAL REVIEW:

- ☒ Approved ☐ Dismissed ☐ Suspended Penalty ☐ Informal Resolution
- ☐ Reduced Penalty ☐ Rehear ☐ Reduced to Lesser-Included Offense

☒ For the charge of: Offense Title: 131 - Possession or use of unauthorized communication devices, to include...☐ For the Lesser Included Offense of: Offense Title: _____

Comments: _____

Offender Accepted Penalty Offer

Penalty: _____

4a - Fine up to \$15 - Imposed Value: 5 Dollars

Signature: _____

Date: 07/17/2023

Print Name: _____

Carr, E A

Title: Treatment Program Supervisor



Virginia Department of Corrections

Disciplinary Offense Report

Report generated by Spencer, A E

Report run on 02/09/2024 at 05:57 PM

Case Number: <u>SXI-2023-1087</u>	Offender Name: <u>Johnson, Kevin</u>	DOC # <u>1007485</u>	Housing: <u>HU3-A-28B</u>
Facility: <u>Sussex I State Prison</u>	Reference: _____		
Offense Code: <u>140A</u>	Offense Title: <u>Possession of tobacco products</u>		
Offense Date: <u>07/07/2023</u>	Approximate Time: <u>1:50 PM</u>	Location: <u>N/A - Other</u>	

DESCRIPTION OF THE OFFENSE

Provide a summary of the details of the offense (i.e.: who, what, when, where, and how; any unusual behavior, any physical evidence and its disposition, and any immediate action taken – including use of force, etc.)

On July 7, 2023, at approximately 1:50 p.m., Intel Officer M. Arenas was conducting a search of inmate Kevin Johnson 1007485 personal property. While searching an assorted amount of commissary items, a blue Moon Lodge Barbeque potato chip appeared to have been open and resealed with clear tape on the top of the bag. After further inspection, two (2) bags of tobacco were discovered inside of the Moon Lodge Barbeque potato chip bag. A second blue Moon Lodge Buffalo Wing and Blue Cheese potato chip was discovered to have been opened and resealed with clear tape on the back of the bag. After further inspection two (2) bags of Tabacco were discovered inside ... <Con't>

☒ InvestigationDate Completed: 07/08/2023☒

DESCRIPTION CONTINUED ON ATTACHED PAGE

Witnesses: <u>Laboy, N</u>

Reporting Officer: <u>Arenas, M</u>
Title: <u>Institutional Investigator</u>
Date: <u>07/08/2023</u> Time: <u>8:28 AM</u>

Officer -In-Charge : <u>Johnson, K M</u>
OIC Signature: _____

Title: <u>Captain</u>
Date: <u>07/08/2023</u> Time: <u>11:31 AM</u>

ADVISEMENT OF RIGHTS

By signing below, you indicate your preference regarding the rights indicated. Failure to respond, or indicate a preference, constitutes a **WAIVER** of the first three rights. The following forms are available to the offender **UPON REQUEST** in each housing unit: *Witness Request Form*, *Documentary Evidence Request Form*, and the *Reporting Officer Response Form*. The offender must submit these request forms to the Hearings Officer within **48-HOURS** of the charge being served.

DO YOU REQUEST A STAFF OR OFFENDER ADVISOR TO ASSIST YOU AT THE HEARING?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
DO YOU WISH TO REQUEST WITNESSES?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
DO YOU WISH TO REQUEST DOCUMENTARY EVIDENCE?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
DO YOU WISH TO WAIVE YOUR RIGHT TO 24-HOUR PREPARATION TIME PRIOR TO THE HEARING?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
DO YOU WISH TO APPEAR AT THE DISCIPLINARY HEARING? Refusal to appear is an admission of guilt, a waiver of witnesses and the right to a disciplinary hearing.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
YOU HAVE THE RIGHT TO QUESTION REPORTING OFFICER (In person for Category I Offenses; by submitting a Reporting Officer Response Form for Category II Offenses)	
YOU HAVE THE RIGHT TO ENTER INTO A PENALTY OFFER.	
YOU MAY REMAIN SILENT. Silence does NOT constitute an admission of guilt.	
THE CHARGE MAY BE VACATED AND RE-SERVED AS A DIFFERENT OFFENSE, WHICH CAN BE A HIGHER, EQUIVALENT OR LESSER OFFENSE CODE.	
YOU MAY BE FOUND GUILTY OF A LESSER-INCLUDED OFFENSE CODE, IN ACCORDANCE WITH OPERATING PROCEDURE 861.1	

You have been informed of the charges against you, and advised of your rights at the Disciplinary Hearing.

Served and Witnessed By: _____	Offender's Signature: _____
Print Name: _____	Print Name: _____
Date of Service: _____	Approximate Time: _____

IF OFFENDER REFUSES TO SIGN, SERVING OFFICER WILL CERTIFY REFUSAL: _____

ADVISOR AT SERVICE OF DOR: _____

FORMS PROVIDED AT SERVICE (IF REQUESTED):

☐ Yes ☐ NoDate of Hearing: 07/14/2023

Revised Date: _____

Revised Date: _____

Revised Date: _____

ENCLOSURE B

Case Number: SXI-2023-1087

Offender Name: Johnson, Kevin

DOC # 1007485

Housing: HU3-A-28B

Facility: Sussex I State Prison

Reference: _____

OFFENDER'S PLEA AND RIGHTS

Hearing Location: _____

Date: 07/16/2023

Time: 12:00 AM

Plea: ☐ Guilty ☐ Not Guilty ☐ No Plea

Advisor at hearing: _____

Reason for absence/exclusion of the accused offender: _____

Was the Reporting Officer present at the Disciplinary hearing?

☐ Yes ☐ No

Has there been a denial of requested witnesses?

☐ Yes ☐ No

Has there been a denial of Documentary Evidence Forms?

☐ Yes ☐ No**DECISION OF THE HEARINGS OFFICER**

- ☐ Guilty ☐ Not Guilty ☐ Dismissed ☒ Accepted Penalty Offer within 24 Hours of Service
- ☐ Informal Resolution ☐ Reduced to Lesser-Included Offense ☐ Reduced Penalty
- ☐ Vacated - Offender waived rewrite/serve of offense ☐ Vacated for Rewrite/Re-serve

☒ For the charge of: Offense Title: 140A - Possession of tobacco products☐ For the Lesser Included Offense of: Offense Title: _____

Reason for Decision: _____

Penalty: 4a - Fine up to \$15 - Imposed Value: 5 Dollars

Comment: _____

Hearing Officer's Signature: _____

Date: 07/16/2023

Print Name: Whitehurst, T

INSTITUTIONAL REVIEW:

- ☒ Approved ☐ Dismissed ☐ Suspended Penalty ☐ Informal Resolution
- ☐ Reduced Penalty ☐ Rehear ☐ Reduced to Lesser-Included Offense

☒ For the charge of: Offense Title: 140A - Possession of tobacco products☐ For the Lesser Included Offense of: Offense Title: _____

Comments: Offender Accepted Penalty Offer

Penalty: 4a - Fine up to \$15 - Imposed Value: 5 Dollars

Signature: _____

Date: 07/17/2023

Print Name: Carr, E A

Title: Treatment Program Supervisor

Case Number: SXI-2023-1087Offender Name: Johnson, KevinDOC # 1007485Housing: HU3-A-28BFacility: Sussex I State Prison

Reference: _____

**Description of Offense
(continued):**

of the Moon Lodge Barbeque potato chip bag. Inmate Kevin Johnson was the only inmate assigned to the cell where the property was collected from, therefore this charge is written in accordance with O.P 861.1.



Virginia Department of Corrections

Disciplinary Offense Report

Report generated by Spencer, A E

Report run on 02/09/2024 at 05:54 PM

Case Number: SXI-2023-1216 Offender Name: Johnson, Kevin DOC # 1007485 Housing: HU3-A-10B
 Facility: Sussex I State Prison Reference: _____
 Offense Code: 137A Offense Title: Lewd or obscene acts directed toward or in the presence of another
 Offense Date: 08/03/2023 Approximate Time: 2:17 AM Location: Restorative/Special Housing Unit - HU3-A

DESCRIPTION OF THE OFFENSE

Provide a summary of the details of the offense (i.e.: who, what, when, where, and how; any unusual behavior, any physical evidence and its disposition, and any immediate action taken – including use of force, etc.)

At approximately 0217 I, c/o C. Bishop-Hopkins was conducting round in building 3 of HRU area A side. While conducting round I c/o C. Bishop-Hopkins notice inmate 03A10 K. Johnson #1007485 had his tray slide still open with his penis out and masturbating. I then stopped the rounds to report the incident to the booth officer, c/o N. Owiredu who then ask myself to write this charge. Also reported incident at Sgt E. Nsabiyakare.

Op 861.1 code 137 A : Lewd or obscene acts directed toward or in the presence of another

* This charge may be written when an inmate is observed committing such an act regardless of where the accused is located when the behavior ... <Con't>

☐ Investigation

Date Completed: _____

☒ DESCRIPTION CONTINUED ON ATTACHED PAGE

Witnesses: Owiredu, N
Nsabiyakare, E

Reporting Officer: bishop-hopkins, CTitle: Correctional OfficerDate: 08/03/2023Time: 2:17 AMOfficer -In-Charge : Defruscio, C CTitle: Lieutenant

OIC Signature: _____

Date: 08/03/2023Time: 3:34 PM**ADVISEMENT OF RIGHTS**

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DO YOU REQUEST A STAFF OR OFFENDER ADVISOR TO ASSIST YOU AT THE HEARING?

☐ Yes ☐ No ☐ REFUSED TO RESPOND

DO YOU WISH TO REQUEST WITNESSES?

☐ Yes ☐ No ☐ REFUSED TO RESPOND

DO YOU WISH TO REQUEST DOCUMENTARY EVIDENCE?

☐ Yes ☐ No ☐ REFUSED TO RESPOND

DO YOU WISH TO WAIVE YOUR RIGHT TO 24-HOUR PREPARATION TIME PRIOR TO THE HEARING?

☐ Yes ☐ No ☐ REFUSED TO RESPOND

DO YOU WISH TO APPEAR AT THE DISCIPLINARY HEARING?

Refusal to appear is an admission of guilt, a waiver of witnesses and the right to a disciplinary hearing.

☐ Yes ☐ No ☐ REFUSED TO RESPOND

YOU HAVE THE RIGHT TO QUESTION REPORTING OFFICER

(In person for Category I Offenses; by submitting a Reporting Officer Response Form for Category II Offenses)

YOU HAVE THE RIGHT TO ENTER INTO A PENALTY OFFER.

YOU MAY REMAIN SILENT. Silence does NOT constitute an admission of guilt.

THE CHARGE MAY BE VACATED AND RE-SERVED AS A DIFFERENT OFFENSE, WHICH CAN BE A HIGHER, EQUIVALENT OR LESSER OFFENSE CODE.

YOU MAY BE FOUND GUILTY OF A LESSER-INCLUDED OFFENSE CODE, IN ACCORDANCE WITH OPERATING PROCEDURE 861.1

You have been informed of the charges against you, and advised of your rights at the Disciplinary Hearing.

Served and Witnessed By: _____

Offender's Signature: _____

Print Name: _____

Print Name: _____

Date of Service: _____

Approximate Time: _____

IF OFFENDER REFUSES TO SIGN, SERVING OFFICER WILL CERTIFY REFUSAL: _____

ADVISOR AT SERVICE OF DOR: _____

FORMS PROVIDED AT SERVICE (IF REQUESTED):

☐ Yes ☐ No
Date of Hearing: 08/08/2023

Revised Date: _____

Revised Date: _____

Revised Date: _____

ENCLOSURE C

Case Number: SXI-2023-1216

Offender Name: Johnson, Kevin

DOC # 1007485

Housing: HU3-A-10B

Facility: Sussex I State Prison

Reference: _____

OFFENDER'S PLEA AND RIGHTS

Hearing Location: _____

Date: 08/14/2023

Time: 12:00 AM

Plea: ☐ Guilty ☐ Not Guilty ☐ No Plea

Advisor at hearing: _____

Reason for absence/exclusion of the accused offender: _____

Was the Reporting Officer present at the Disciplinary hearing?

☐ Yes ☐ No

Has there been a denial of requested witnesses?

☐ Yes ☐ No

Has there been a denial of Documentary Evidence Forms?

☐ Yes ☐ No**DECISION OF THE HEARINGS OFFICER**☐ Guilty ☐ Not Guilty ☐ Dismissed ☒ Accepted Penalty Offer within 24 Hours of Service☐ Informal Resolution ☐ Reduced to Lesser-Included Offense ☐ Reduced Penalty☐ Vacated - Offender waived rewrite/serve of offense ☐ Vacated for Rewrite/Re-serve☒ For the charge of: Offense Title: 137A - Lewd or obscene acts directed toward or in the presence of another☐ For the Lesser Included Offense of: Offense Title: _____

Reason for Decision: _____

Penalty: 4a - Fine up to \$15 - Imposed Value: 2 Dollars

Comment: _____

Hearing Officer's Signature: _____

Date: 08/14/2023

Print Name: Whitehurst, T

INSTITUTIONAL REVIEW:☒ Approved ☐ Dismissed ☐ Suspended Penalty ☐ Informal Resolution☐ Reduced Penalty ☐ Rehear ☐ Reduced to Lesser-Included Offense☒ For the charge of: Offense Title: 137A - Lewd or obscene acts directed toward or in the presence of another☐ For the Lesser Included Offense of: Offense Title: _____

Comments: Offender Accepted Penalty Offer

Penalty: 4a - Fine up to \$15 - Imposed Value: 2 Dollars

Signature: _____

Date: 08/22/2023

Print Name: Carr, E A

Title: Treatment Program Supervisor

Case Number: SXI-2023-1216Offender Name: Johnson, KevinDOC # 1007485Housing: HU3-A-10BFacility: Sussex I State Prison

Reference: _____

**Description of Offense
(continued):**

was observed.

- Unlike cases of Indecent Exposure, there is no allowance for "accidental observation" of such an act when the accused is inside their cell, the shower area, etc.

As staff of any gender may write this charge, claiming that the accused was unaware that a specific staff member was in the area is not considered a valid defense.



Virginia Department of Corrections

Disciplinary Offense Report

Report generated by Spencer, A E
Report run on 02/09/2024 at 05:49 PM

Case Number: <u>SXI-2023-1664</u>	Offender Name: <u>Johnson, Kevin</u>	DOC # <u>1007485</u>	Housing: <u>HU3-D-13B</u>
Facility: <u>Sussex I State Prison</u>	Reference: _____		
Offense Code: <u>102A</u>	Offense Title: <u>Possession or use of a Weapon/Sharp Inst/Ammo/Explo/Incind Device(includes F</u>		
Offense Date: <u>10/19/2023</u>	Approximate Time: <u>3:20 AM</u>	Location: <u>Cell - HU3-D</u>	

DESCRIPTION OF THE OFFENSE

Provide a summary of the details of the offense (i.e.: who, what, when, where, and how; any unusual behavior, any physical evidence and its disposition, and any immediate action taken – including use of force, etc.)

On October 19, 2023, at approximately 3:20 a.m., Special Response Team Lt. D. Williams (GROC) was conducting a cell search of Inmate Kevin Johnson #1007485 cell 3D13. At which time, SRT Lt. D. Williams turned over a grey and black Kershaw Speedway USA manufactured pocket knife, measuring 7.5" to me Intel Officer Paillant. The grey and black Kershaw Speedway USA manufactured pocket knife was recovered from under the cell door, which was being held with a magnet. You, Inmate K. Johnson 1007485 were the only inmate assigned to the cell when the weapon was recovered, therefore you are in direct violation of offense code 102a-Possession or use of a weapon, ... <Con't>

☐ Investigation

Date Completed: _____

☒ DESCRIPTION CONTINUED ON ATTACHED PAGE

Witnesses: <u>Williams, D, C</u>	Reporting Officer: <u>Paillant, P</u>
	Title: <u>Correctional Officer</u>
	Date: <u>10/19/2023</u> Time: <u>10:43 AM</u>
Officer -In-Charge: <u>Ricks, C L</u>	Title: <u>Lieutenant</u>
OIC Signature: _____	Date: <u>10/19/2023</u> Time: <u>11:23 AM</u>

ADVISEMENT OF RIGHTS

By signing below, you indicate your preference regarding the rights indicated. Failure to respond, or indicate a preference, constitutes a **WAIVER** of the first three rights. The following forms are available to the offender **UPON REQUEST** in each housing unit: *Witness Request Form*, *Documentary Evidence Request Form*, and the *Reporting Officer Response Form*. The offender must submit these request forms to the Hearings Officer within **48-HOURS** of the charge being served.

DO YOU REQUEST A STAFF OR OFFENDER ADVISOR TO ASSIST YOU AT THE HEARING?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
DO YOU WISH TO REQUEST WITNESSES?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
DO YOU WISH TO REQUEST DOCUMENTARY EVIDENCE?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
DO YOU WISH TO WAIVE YOUR RIGHT TO 24-HOUR PREPARATION TIME PRIOR TO THE HEARING?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
DO YOU WISH TO APPEAR AT THE DISCIPLINARY HEARING? Refusal to appear is an admission of guilt, a waiver of witnesses and the right to a disciplinary hearing.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> REFUSED TO RESPOND
YOU HAVE THE RIGHT TO QUESTION REPORTING OFFICER (In person for Category I Offenses; by submitting a Reporting Officer Response Form for Category II Offenses)	
YOU HAVE THE RIGHT TO ENTER INTO A PENALTY OFFER.	
YOU MAY REMAIN SILENT. Silence does NOT constitute an admission of guilt.	
THE CHARGE MAY BE VACATED AND RE-SERVED AS A DIFFERENT OFFENSE, WHICH CAN BE A HIGHER, EQUIVALENT OR LESSER OFFENSE CODE.	
YOU MAY BE FOUND GUILTY OF A LESSER-INCLUDED OFFENSE CODE, IN ACCORDANCE WITH OPERATING PROCEDURE 861.1	

You have been informed of the charges against you, and advised of your rights at the Disciplinary Hearing.

Served and Witnessed By: _____	Offender's Signature: _____
Print Name: _____	Print Name: _____
Date of Service: <u>10/19/2023</u>	Approximate Time: <u>3:14 PM</u>

IF OFFENDER REFUSES TO SIGN, SERVING OFFICER WILL CERTIFY REFUSAL: _____**ADVISOR AT SERVICE OF DOR:** _____Date of Hearing: 11/17/2023Revised Date: 11/14/2023**FORMS PROVIDED AT SERVICE (IF REQUESTED):**☐ Yes ☐ NoRevised Date: 11/17/2023

Revised Date: _____

ENCLOSURE D

Case Number: SXI-2023-1664

Offender Name: Johnson, Kevin

DOC # 1007485

Housing: HU3-D-13B

Facility: Sussex I State Prison

Reference: _____

OFFENDER'S PLEA AND RIGHTSHearing Location: Sussex I State PrisonDate: 11/17/2023Time: 9:50 AMPlea: ☐ Guilty ☒ Not Guilty ☐ No Plea

Advisor at hearing: _____

Reason for absence/exclusion of the accused offender: _____

Was the Reporting Officer present at the Disciplinary hearing?

☐ Yes ☐ No

Has there been a denial of requested witnesses?

☐ Yes ☐ No

Has there been a denial of Documentary Evidence Forms?

☐ Yes ☐ No**DECISION OF THE HEARINGS OFFICER**

- ☒ Guilty ☐ Not Guilty ☐ Dismissed ☐ Accepted Penalty Offer within 24 Hours of Service
- ☐ Informal Resolution ☐ Reduced to Lesser-Included Offense ☐ Reduced Penalty
- ☐ Vacated - Offender waived rewrite/serve of offense ☐ Vacated for Rewrite/Re-serve

☒ For the charge of: Offense Title: 102A - Possession or use of a Weapon/Sharp Inst/Ammo/Explo/Incind Device(includes F

☐ For the Lesser Included Offense of: Offense Title: _____

Reason for Decision:

R/O offered sufficient testimony for conviction.

Penalty:

Fine of up to 25.00 - Imposed Value: 1 Dollars

Comment: _____

Hearing Officer's Signature: _____

Date: 11/17/2023

Print Name:

Kitchen, M**INSTITUTIONAL REVIEW:**

- ☐ Approved ☐ Dismissed ☐ Suspended Penalty ☐ Informal Resolution
- ☐ Reduced Penalty ☐ Rehear ☐ Reduced to Lesser-Included Offense

☒ For the charge of: Offense Title: 102A - Possession or use of a Weapon/Sharp Inst/Ammo/Explo/Incind Device(includes F

☐ For the Lesser Included Offense of: Offense Title: _____

Comments: _____

Penalty:

Fine of up to 25.00 - Imposed Value: 1 Dollars

Signature: _____

Date: _____

Print Name: _____

Title: _____

Case Number: SXI-2023-1664

Offender Name: Johnson, Kevin

DOC # 1007485

Housing: HU3-D-13B

Facility: Sussex I State Prison

Reference: _____

**Description of Offense
(continued):**

sharpened instrument, ammunition, explosive or incendiary device and charged in accordance with Operating Procedure
861.1



Virginia Department of Corrections

Institutional Classification Authority Hearing

DOC
Location:
Sussex I
State
Prison
Report
generated
by Bowles,
K A
Report
run on
02/09/2024
at 06:17
PM

Offender Name: Johnson, Kevin **DOC#:** 1007485 **DOC Location:** Sussex I State Prison **Bed Assignment:** HU3-D-13-B

Part I: ICA Referral Notice

You were scheduled to appear before the Institutional Classification Authority on or after 10/19/2023 for Transfer

Comments:

Authorizing Staff

Date & Time

Hearing Date:

Offender Statement:

Reporting Staff Comments:

Part II: Hearing Disposition

Transfer Review:

The ICA recommends: Transfer to Red Onion State Prison

Rationale: It is recommended that Inmate K. Johnson #1007485 be transferred to Red Onion State Prison for having a knife in his possession. This behavior displayed by Inmate Johnson is a threat to public, staff, inmate safety, and the orderly operation of the institution. He has received multiple infractions for having dangerous contraband and trying to breach the secure perimeter.

ICA: Branch,
Joshua M

Date: 10/19/2023

Administrative Review:

Decision: Approve

Transfer to Red Onion State Prison

Green, Timothy W

Date: 10/19/2023

Comments: It is recommended that Inmate K. Johnson #1007485 be transferred to Red Onion State Prison for having a knife in his possession. This behavior displayed by Inmate Johnson is a threat to public, staff, inmate safety, and the orderly operation of the institution. He has received multiple infractions for having dangerous contraband and trying to breach the secure perimeter.

CCS Review:

☒ Approve

Transfer to Red Onion State Prison, Wallens Ridge State Prison

Ford, Troy R

Date: 10/23/2023

Comments: transfer approved. due to recent infractions (2-131, 137, and 102) a more secure facility is warranted.

ENCLOSURE E



Virginia Department of Corrections

Institutional Classification Authority Hearing

DOC
Location:
Sussex I
State
Prison
Report
generated
by Bowles,
K A
Report
run on
02/09/2024
at 06:20
PM

Offender Name: Johnson, Kevin **DOC#:** 1007485 **DOC Location:** Sussex I State Prison **Bed Assignment:** HU3-A-06-B

Part I: ICA Referral Notice

You were scheduled to appear before the Institutional Classification Authority on or after 10/24/2023 for Internal Status

Comments: 3-Day MDT: Inmate K. Johnson #1007485 was removed from General Population and laced in Restorative Housing on 10/19/2023 due to having a knife in his possession.

Authorizing Staff

Date & Time

Hearing Date:

Offender Statement:

Reporting Staff Comments:

Part II: Hearing Disposition

Internal Status Review:

The ICA recommends: Internal status change to RHU - Restorative Housing

Rationale: 3-Day MDT: Inmate K. Johnson #1007485 was removed from General Population and laced in Restorative Housing on 10/19/2023 due to having a knife in his possession. Inmate is being recommended to stay on RHU status pending further information.

ICA: Greene, Eric
D

Date: 10/24/2023

Administrative Review:

Decision: Approve

Internal status change to RHU - Restorative Housing

Green, Timothy W

Date: 10/25/2023

Comments:



Virginia Department of Corrections

DOC-11H

Institutional Classification Authority Hearing

DOC
Location:
Sussex I
State
Prison
Report
generated
by Bowles,
K A
Report
run on
02/09/2024
at 06:19
PM

Offender Name: Johnson, Kevin	DOC#: 1007485	DOC Location: Sussex I State Prison	Bed Assignment: HU3-D-13-B
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Part I: ICA Referral Notice

You were scheduled to appear before the Institutional Classification Authority on or after 10/19/2023 for Internal Status

Comments: Inmate K. Johnson #1007485 is being placed in RHU status for having a knife in his possession. This behavior displayed by Inmate Johnson is a threat to public, staff, inmate safety, and the orderly operation of the institution. There was no other alternative than to placed Inmate Johnson in RHU.

Carr, Elizabeth A - Treatment Program Supervisor	10/19/2023 01:05 PM
Authorizing Staff	Date & Time

Hearing Date: 10/24/2023

Offender Statement:

Reporting Staff Comments:

Part II: Hearing Disposition

Internal Status Review:

The ICA recommends: Internal status change to RHU - Restorative Housing

Rationale:

ICA: Branch, Joshua M	Date: 10/25/2023
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Administrative Review:

Decision: Approve	Internal status change to RHU - Restorative Housing
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Branch, Joshua M	Date: 10/25/2023
------------------	------------------

Comments:



Virginia Department of Corrections

Institutional Classification Authority Hearing

DOC
Location:
Sussex I
State
Prison
Report
generated
by Bowles,
K A
Report
run on
02/09/2024
at 06:22
PM

Offender Name: Johnson, Kevin **DOC#:** 1007485 **DOC Location:** Sussex I State Prison **Bed Assignment:** HU3-A-06-B

Part I: ICA Referral Notice

You were scheduled to appear before the Institutional Classification Authority on or after 10/26/2023 for Internal Status

Comments: 10-Day MDT: Inmate K. Johnson #1007485 was removed from General Population and laced in Restorative Housing on 10/19/2023 due to having a knife in his possession.

Authorizing Staff

Date & Time

Hearing Date:

Offender Statement:

Reporting Staff Comments:

Part II: Hearing Disposition

Internal Status Review:

The ICA recommends: Internal status change to SD-1 Restorative Housing Step Down 1

Rationale: 10-Day MDT: Inmate K. Johnson #1007485 was removed from General Population and laced in Restorative Housing on 10/19/2023 due to having a knife in his possession. Inmate is being recommended to be on Sd-1 status. To continue on the step down process.

ICA: Greene, Eric
D

Date: 10/26/2023

Administrative Review:

Decision: Approve

Internal status change to SD-1 Restorative Housing Step Down 1

Green, Timothy W

Date: 10/27/2023

Comments: